

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE:)
)
APPLICATION OF MEMPHIS)
NETWORKX, LLC FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND)
NECESSITY TO PROVIDE INTERSTATE)
TELECOMMUNICATION SERVICES)
AND JOINT PETITION OF MEMPHIS)
LIGHT, GAS & WATER DIVISION,)
A DIVISION OF THE CITY OF)
MEMPHIS, TENNESSEE ("MLG&W"))
AND A&L NETWORKS-TENNESSEE,)
LLC ("A&L") FOR APPROVAL OF)
AN AGREEMENT BETWEEN MLG&W)
AND A&L REGARDING OWNERSHIP)
OF MEMPHIS NETWORKX, LLC.)

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DOCKET NO. 99-00909

**OPPOSITION OF INTERVENOR INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 1288
TO MOTION FOR BIFURCATED HEARING SCHEDULE**

COMES NOW the Intervenor, International Brotherhood of Electrical Workers, Local 1288 ("IBEW"), and in opposition to the Motion for Bifurcated Hearing Schedule filed by Intervenor, Time Warner Telecom of the Mid-South, L.P., Time Warner Communications of the Mid-South, L.P., and the Tennessee Cable Telecommunications Association ("Movants"), would state as follows:

1. On February 15, 2000, Movants filed a Petition to Intervene in the above docket. Pursuant to an Order entered February 15, 2000, said Petition was granted.
2. On February 15, 2000, Movants submitted six issues relevant to this docket. In addition to issues relevant to whether the proposed Joint Venture will comply with necessary statutory

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requirements, Movants also raised the issue of whether Memphis Light, Gas & Water's ("MLG&W") ownership interest in Memphis Networkx, L.L.C. ("Memphis Networkx") violates Article II, Section 29 of the Tennessee Constitution. Movants also raised the issue of to what extent, if any, MLG&W's authorization to offer telecommunication services is affected by its charter and that of the City of Memphis. Attached hereto as Exhibit "A" is a copy of the issues submitted by Movants.

3. On May 1, 2000, at the hearing scheduled in this matter, Movants, MLG&W and Memphis Networkx announced that the parties had entered into settlement discussions. Subsequently, on May 2, 2000, an Amended Application of Memphis Networkx LLC, entered into by Memphis Networkx, MLG&W, and Movants was filed with the Authority. This Amended Application sets forth twelve Specific Conditions. None of these Conditions, however, address the constitutional or charter issues that were initially raised by Movants.
4. On May 5, 2000, MLG&W and Memphis Networkx filed an Explanation of Settlement Agreement and Amendment to Application. In this Explanation, however, MLG&W and Memphis Networkx again fail to specifically address the above issues.
5. In their Position Statement on the Amended Application filed May 5, 2000, Movants acknowledged that there may be issues appropriate for the Authority's consideration and determination. Movants requested that the Authority approve the Application as amended, but "in tandem with such approval" resolve any and all public policy issues relevant to the operations of Memphis Networkx.
6. In their Motion for Bifurcated Hearing Schedule, Movants are now requesting that the Directors hold an initial hearing to determine whether the Settlement Agreement and

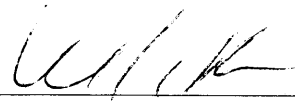
Amended Application be approved and adopted by Order as a condition to the Application. IBEW opposes such a bifurcated hearing. The fact that MLG&W, Memphis Networx, and the Movants have entered into a Settlement Agreement does not dispose of the constitutional and charter issues that the Movants initially raised. These issues remain and should be litigated in an adversarial hearing with full participation of all parties. Such issues should not be abandoned by the parties because of this proposed settlement.

7. IBEW submits that the issues raised by Movants in Paragraph 6 of their Motion further illustrate why a full hearing is required.
8. IBEW concurs with the Movants that a hearing not be scheduled between June 20, 2000 and July 5, 2000 due to scheduling conflicts with counsel for IBEW.

WHEREFORE, on the basis of the above, Intervenor respectfully requests that the Motion for Bifurcated Hearing Schedule be denied.

Respectfully submitted,

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BY: 
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CERTIFICATE OF SERVICE

I, Lee J. Bloomfield, do hereby certify that on June 7, 2000, a copy of the foregoing document was served on the parties of record listed below via U.S. Mail, postage prepaid, first class.

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